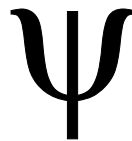


STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGY



DISCIPLINARY GUIDELINES

**ADOPTED 11/92 - EFFECTIVE 1/1/93 - AMENDED 7/1/96, AMENDED 4/1/99,
AMENDED 9/1/02**

INTRODUCTION

The Board of Psychology of the California Department of Consumer Affairs (hereinafter "the Board") is a consumer protection agency with the primary mission of protecting consumers of psychological services from potentially harmful practices. In keeping with its mandate to protect this particularly vulnerable population, the Board has adopted the following recommended guidelines for disciplinary orders and conditions of probation for violations of the Psychology Licensing Law.

The Board recognizes that a rare individual case may necessitate a departure from these guidelines for disciplinary orders. However, in such a rare case, the mitigating circumstances must be detailed in the "Finding of Fact" which is in every Proposed Decision.

If at the time of hearing, the Administrative Law Judge finds that the respondent, for any reason, is not capable of safe practice, the Board expects outright revocation of the license. This is particularly true in any case of patient sexual abuse. In less egregious cases, a stayed revocation with probation pursuant to the attached Penalty Guidelines would be appropriate.

BOARD INFORMATION

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PENALTY GUIDELINES

The following is an attempt to provide information regarding the range of offenses under the Psychology Licensing Law and the California Code of Regulations and the appropriate penalty for each offense. Each penalty listed is followed in parenthesis by a number which corresponds with a number under the chapter "Terms and Conditions of Probation." Legal "enacted" dates follow the definition of some of the most frequently used disciplinary subdivisions. Examples are given for illustrative purposes, but no attempt is made to catalog all possible offenses. The Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations that take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision for final action.

Business and Professions Code § 2960

2960 UNPROFESSIONAL CONDUCT - Enacted 3/30/94

MAXIMUM: Unprofessional conduct involving inappropriate behavior resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration.

MINIMUM: Unprofessional conduct involving inappropriate behavior resulting in minimal or no harm to patient(s).

Penalty: Depending upon the circumstances, up to 5 year probation, psychological evaluation and/or therapy if appropriate (2) and (6), California Jurisprudence and Professional Ethics Examination (CJPEE) (7), and standard terms and conditions (14-27).

2960 (a) CONVICTION OF A CRIME SUBSTANTIALLY RELATED TO THE PRACTICE OF PSYCHOLOGY - Enacted 1/1/67 for convictions involving moral turpitude. Amended 1/1/76 for convictions substantially related to the practice of psychology.

MAXIMUM: Conviction of a crime of violence against a person or property or economic crime resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Conviction of other crime resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, billing monitor (if financial crime) (4), therapy (6), CJPEE (7), restitution (if appropriate) (8), community service (13), and standard terms and conditions (14-27).

2960 (b) USE OF CONTROLLED SUBSTANCE OR ALCOHOL IN A DANGEROUS MANNER

MAXIMUM: Abuse of alcohol or a controlled substance resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Abuse of alcohol or a controlled substance to the extent that ability to safely render psychological services is impaired.

Penalty: 5 year probation, physical examination (if appropriate) (3), practice monitor (4), CJPEE (7), participation in an alcohol/drug abuse treatment program (9) and continuing therapy with a psychologist trained in substance abuse treatment (10), abstain from all non-prescribed, controlled drugs and alcohol/biological fluid testing (11), and standard terms and conditions (14-27).

2960 (c) FRAUDULENTLY OR NEGLECTFULLY MISREPRESENTING THE TYPE OR STATUS OF LICENSE OR REGISTRATION ACTUALLY HELD

MAXIMUM: Misrepresentation of status resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Misrepresentation of status resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, community service (13), and standard terms and conditions (14-27).

2960 (d) IMPERSONATING ANOTHER PERSON HOLDING A PSYCHOLOGY LICENSE OR ALLOWING ANOTHER PERSON TO USE HIS OR HER LICENSE OR REGISTRATION

MAXIMUM: Impersonation or use resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Impersonation or use resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, psychological evaluation (2), CJPEE (7), community service (13), and standard terms and conditions (14-27).

2960 (e) PROCURING A LICENSE BY FRAUD OR DECEPTION

Penalty: Revocation is the only suitable penalty inasmuch as the license would not have been issued but for the fraud or deception. If the fraud is substantiated prior to issuance of the license or registration, then denial of the application is the only suitable penalty.

2960 (f) ACCEPTING REMUNERATION OR PAYING FOR REFERRALS TO OTHER PROFESSIONALS - Enacted 1/1/68 (formerly subdivision (e))

MAXIMUM: Accepting substantial remuneration or paying for referrals resulting in substantial harm to patient(s).

Penalty: Revocation, denial of license or registration application.

MINIMUM: Accepting remuneration in isolated instances resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, billing monitor (4), CJPEE (7), and standard terms and conditions (14-27).

2960 (g) VIOLATING SECTION 17500 OF THE BUSINESS AND PROFESSIONS CODE REGARDING ADVERTISING

Repeated infractions of statute regarding advertising.

Penalty: 5 year probation, community service (13) and standard terms and conditions (14-27).

2960 (h) VIOLATION OF CONFIDENTIALITY - Enacted 1/1/68 (formerly subdivision (g))

MAXIMUM: Unlawfully divulging information resulting in substantial harm to

patient(s).

Penalty: Revocation, denial of license or registration application.

MINIMUM: Unlawfully divulging information resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, practice monitor (4), CJPEE (7), and standard terms and conditions (14-27).

2960 (i) VIOLATION OF RULES OF PROFESSIONAL CONDUCT (FOR EXAMPLE, VIOLATION OF SECTION 1396.1, INTERPERSONAL RELATIONSHIP) - Enacted 1/1/68 (formerly subdivision (h))

See 2960

2960 (j) GROSS NEGLIGENCE IN THE PRACTICE OF PSYCHOLOGY - Enacted 1/1/68 (formerly subdivision (i))

MAXIMUM: Gross negligence resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Gross negligence resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, psychological evaluation prior to resumption of practice (condition precedent) (2), practice monitor/billing monitor (4), patient population restriction (if appropriate) (5), therapy (6), CJPEE (7), Examination for Professional Practice in Psychology (EPPP) (if appropriate) (7), and standard terms and conditions (14-27).

2960 (k) VIOLATING ANY PROVISION OF THIS CHAPTER OR REGULATIONS DULY ADOPTED THEREUNDER - Enacted 1/1/68 (formerly subdivision (j))

No guidelines. Refer to underlying statute or regulation.

2960 (l) AIDING OR ABETTING UNLICENSED PRACTICE

MAXIMUM: Multiple instances of aiding or abetting unlicensed practice, which results in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Isolated instance of aiding or abetting unlicensed practice resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, CJPEE (7), and standard terms and conditions (14-27).

2960 (m) DISCIPLINARY ACTION BY ANOTHER STATE AGAINST A LICENSE OR REGISTRATION

In evaluating the appropriate penalty, identify the comparable California statute(s) and corresponding penalty(ies).

2960 (n) DISHONEST, CORRUPT OR FRAUDULENT ACT - Enacted 1/1/80

MAXIMUM: Dishonest or fraudulent act resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Dishonest or fraudulent act resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, psychological evaluation and ongoing therapy if appropriate (2), billing monitor (4), CJPEE (7), full restitution (8), community service (13) and standard terms and conditions (14-27).

2960 (o); 726 ANY ACT OF SEXUAL ABUSE, OR SEXUAL RELATIONS WITH A PATIENT OR FORMER PATIENT WITHIN TWO YEARS FOLLOWING TERMINATION OF THERAPY, or sexual misconduct that is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant or registered psychologist.

When a finding of sexual misconduct occurs, revocation or surrender of license/registration and/or denial of application for license or registration **MUST** be the penalty ordered. **NO MINIMUM PENALTY.**

NOTE: Business and Professions Code Section 2960.1 states: Notwithstanding Section 2960, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3

of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any acts of sexual contact, as defined in Section 728, when that act is with a patient, or with a former patient within two years following termination of therapy, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

2960 (p) FUNCTIONING OUTSIDE FIELD(S) OF COMPETENCE - Enacted 1/1/83 (Renumbered 1/1/93. Formerly subdivision (o))

MAXIMUM: Functioning outside field(s) of competence resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Functioning outside field(s) of competence resulting in minimal or no harm to patient(s).

Penalty: 5 year probation, practice monitor (4), patient population restriction (5), CJPEE (7), and EPPP (if appropriate) (7), and standard terms and conditions (14-27).

2960 (q) WILLFUL FAILURE TO VERIFY AN APPLICANT'S SUPERVISED EXPERIENCE (Renumbered 1/1/93. Formerly subdivision (p))

Penalty: 5 year probation and standard terms and conditions (14-27).

2960 (r) REPEATED NEGLIGENT ACTS - Enacted 3/30/94

MAXIMUM: Repeated negligent acts resulting in substantial harm to patient(s).

Penalty: Revocation; denial of license or registration application.

MINIMUM: Repeated negligent acts resulting in minimal or no harm to patient(s).

Penalty: Depending on the circumstances, up to 5 year probation, psychological evaluation prior to resumption of practice (condition precedent (2), practice monitor (4), CJPEE and/or EPPP (if appropriate) (7), and standard terms and conditions (14-27).

TERMS AND CONDITIONS OF PROBATION

Terms and conditions of probation are divided into two categories. The first category consists of **optional terms and conditions** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the **standard terms and conditions**, which must appear in all Proposed Decisions and proposed stipulated agreements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-13) that are being imposed be listed first in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (14-27).

OPTIONAL TERMS AND CONDITIONS

Listed below are optional conditions of probation that the Board would expect to be included in any Proposed Decision or Stipulation as appropriate.

1. Actual Suspension

As part of probation, respondent is suspended from the practice of psychology for _____ days beginning with the effective date of this Decision. During the suspension, any probation period is tolled and will not commence again until the suspension is completed.

2. Psychological Evaluation

Within 90 days of the effective date of this Decision and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychological evaluation (and psychological testing, if deemed necessary) by a Board-appointed California-licensed psychologist. Respondent shall sign a release that authorizes the evaluator to furnish the Board a current DSM IV diagnosis and a written report regarding the respondent's judgement and/or ability to function independently as a psychologist with safety to the public, and whatever other information the Board deems relevant to the case. The completed evaluation is the sole property of the Board. The evaluation should not be disclosed to anyone not authorized by the board or by court order.

If the Board concludes from the results of the evaluation that respondent is unable to practice independently and safely, respondent shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within 30 days and shall not resume practice until a Board-appointed evaluator determines that respondent is safe to practice. During this suspension period, probation will be tolled and will not commence again until the suspension is completed.

If ongoing psychotherapy is recommended in the psychological evaluation, the Board will notify respondent in writing to submit to such therapy and to select a psychotherapist for approval by the Board or its designee within 30 days of such notification. The therapist shall 1) be a California-licensed psychologist with a clear and current license; 2) have no previous business, professional, personal or other relationship with respondent; 3) not be the same person as respondent's practice or billing monitor. Frequency of psychotherapy shall be determined upon recommendation of the treating psychotherapist with approval by the Board or its designee; however, psychotherapy shall, at a minimum, consist of one one-hour session per week. Respondent shall continue psychotherapy until released by the approved psychologist and approved by the Board or its designee. The Board or its designee may order a re-evaluation upon receipt of the therapist's recommendation.

Respondent shall execute a release authorizing the therapist to provide to the Board any information the Board or its designee deems appropriate, including quarterly reports of respondent's therapeutic progress. Respondent shall furnish a copy of this Decision to the therapist. If the therapist determines that the respondent cannot continue to independently render psychological services, with safety to the public, he/she shall notify the Board immediately.

Respondent shall pay all costs associated with the psychological evaluation and ongoing psychotherapy. Failure to pay costs will be considered a violation of the probation order.

NOTE: Psychological evaluations shall be utilized when an offense calls into question the judgement and/or emotional and/or mental condition of the respondent or where there has been a history of abuse or dependency of alcohol or controlled substances. When appropriate, respondent shall be barred from rendering psychological services under the terms of probation until he or she has undergone an evaluation, the evaluator has recommended resumption of practice, and the Board has accepted and approved the evaluation.

3. Physical Examination

Within 90 days of the effective date of this Decision, respondent shall undergo a physical examination by a licensed physician and surgeon approved by the Board. Respondent shall sign a release authorizing the physician to furnish the Board a report that shall provide an assessment of respondent's physical condition and capability to safely provide psychological services to the public. If the evaluating physician determines that respondent's physical condition prevents safe practice, respondent shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within 30 days and shall not resume practice until a Board-appointed evaluator determines that respondent is safe to practice. During this suspension period, probation will be tolled and will not commence again until the suspension is completed. If the evaluating physician determines it to be necessary, a recommended treatment program will be instituted and followed by the respondent with the physician providing written progress reports to the Board on a quarterly basis or as otherwise determined by the Board or its designee.

It shall be the respondent's responsibility to assure that the required quarterly progress reports are filed by the treating physician in a timely manner. Respondent shall pay all costs of such examination(s). Failure to pay these costs shall be considered a violation of probation.

NOTE: This condition permits the Board to require the probationer to obtain appropriate treatment for physical problems/disabilities that could affect safe practice of psychology. The physical examination can also be conducted to ensure that there is no physical evidence of alcohol/drug abuse.

4. Practice Monitor/Billing Monitor

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval, the name and qualifications of a psychologist who has agreed to serve as a practice monitor/billing monitor. The monitor shall 1) be a California-licensed psychologist with a clear and current license; 2) have no prior business, professional, personal or other relationship with respondent; and 3) not be the same person as respondent's therapist. The monitor's education and experience shall be in the same field of practice as that of the respondent.

Once approved, the monitor shall submit to the Board or its designee a plan by which respondent's practice shall be monitored. Monitoring shall consist of a least one hour per week of individual face to face meetings and shall continue during the entire probationary period. The respondent shall provide the monitor with a copy of this Decision and access to respondent's fiscal and/or patient records. Respondent shall obtain any necessary patient releases to enable the monitor to review records and to make direct contact with patients. Respondent shall execute a release authorizing the monitor to divulge any information that the Board may request. It shall be respondent's responsibility to assure that the monitor submits written reports to the Board or its designee on a quarterly basis verifying that monitoring has taken place and providing an evaluation of respondent's performance.

Respondent shall notify all current and potential patients of any term or condition of probation that will affect their therapy or the confidentiality of their records (such as this condition, which requires a practice monitor/billing monitor). Such notifications shall be signed by each patient prior to continuing or commencing treatment.

If the monitor quits or is otherwise no longer available, respondent shall get approval from the Board for a new monitor within 30 days. If no new monitor is approved within 30 days, respondent shall not practice until a new monitor has been approved by the Board or its designee. During this period of non-practice, probation will be tolled and will not commence again until the period of non-practice is completed. Respondent shall pay all costs associated with this monitoring requirement. Failure to pay these costs shall be considered a violation of probation.

NOTE: Monitoring shall be utilized when respondent's ability to function independently is in doubt or when fiscal improprieties have occurred, as a

result of a deficiency in knowledge or skills, or as a result of questionable judgement.

5. Notification to Employer

Respondent shall provide each of his or her employers, where respondent is providing psychological services, a copy of this Decision and the Accusation or Statement of Issues before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

6. Restriction of Patient Population

NOTE: In cases wherein some factor of the patient population at large (e.g. age, gender) may put a patient at risk if in therapy with the respondent, language appropriate to the case may be developed to restrict such a population. The language would vary greatly by case.

7. Psychotherapy

Within 90 days of the effective date of this Decision, a therapist shall be selected by the respondent for approval by the Board. The therapist shall 1) be a California-licensed psychologist with a clear and current license; 2) have no previous business, professional, personal, or other relationship with respondent; and 3) not be the same person as respondent's monitor. Respondent shall furnish a copy of this Decision to the therapist. Psychotherapy shall, at a minimum, consist of one hour per week over a period of 26 weeks after which it may continue or terminate upon the written recommendation of the therapist with approval by the Board or its designee. The Board or its designee may order a re-evaluation upon receipt of the therapist's recommendation.

Respondent shall execute a release authorizing the therapist to provide to the Board or its designee any information the Board deems appropriate, including quarterly reports of respondent's therapeutic progress. It shall be respondent's responsibility to assure that the required quarterly reports are filed by the therapist in a timely manner. If the therapist notifies the Board that the therapist believes the respondent cannot continue to safely render psychological services, respondent shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within 30 days and shall not resume practice until a Board-appointed evaluator determines that respondent is again safe to practice. During this period of non-practice, probation shall be tolled and will not commence again until the period of non-practice is completed.

If, prior to the termination of probation, respondent is found not to be mentally fit

to resume the practice of psychology without restrictions, the Board shall retain continuing jurisdiction over the respondent's license and the period of probation shall be extended until the Board or its designee determines that the respondent is mentally fit to resume the practice of psychology without restrictions.

Cost of psychotherapy is to be paid by the respondent.

NOTE: The need for psychotherapy may be determined pursuant to a psychological evaluation or as evident from the facts of the case. The frequency of psychotherapy shall be related to the offense involved and the extent to which the offense calls into question the judgement, motivation, and emotional and/or mental condition of the respondent.

8. Examination(s)

**California Jurisprudence and Professional Ethics Examination (CJPEE)
Term MUST INCLUDE Either Option 1 or Option 2:**

Option 1 (Condition Subsequent)

Respondent shall take the CJPEE within 90 days of the effective date of the decision. If respondent fails such examination, respondent shall immediately cease accepting new patients and, in accordance with professional standards, shall appropriately refer/terminate existing patients within 30 days and shall not resume practice until the re-examination has been successfully passed, as evidenced by written notice to respondent from the Board or its designee. During this period of non-practice, probation shall be tolled and will not commence again until the suspension is completed. It is respondent's responsibility to contact the Board in writing to make arrangements for such examination. Respondent shall pay the established examination fee(s).

Option 2 (Condition Precedent)

Respondent shall not practice psychology until respondent has passed the CJPEE. During this period of non-practice, probation is tolled and will not commence again until the suspension is completed. It is respondent's responsibility to contact the Board in writing to make arrangements for such examination(s). Respondent shall pay the established examination fee(s).

NOTE: In cases involving evidence of serious deficiencies in the body of knowledge required to be minimally competent to practice independently, it may be appropriate to require the respondent to take and pass both the EPPP and CJPEE during the course of the probation period. For specific language pertinent to the EPPP, contact Board staff. In some instances, it may be appropriate for practice to be suspended until the examination is passed (condition precedent).

9. Restitution

Within 90 days of the effective date of this Decision, respondent shall provide proof to the Board or its designee of restitution in the amount of \$_____ paid to _____. Failure to pay restitution shall be considered a violation of probation. Restitution is to be paid regardless of the tolling of probation.

NOTE: In offenses involving economic exploitation, restitution is a necessary term of probation. For example, restitution would be a standard term in any case involving Medi-Cal or other insurance fraud. The amount of restitution shall be at a minimum the amount of money that was fraudulently obtained by the licensee. Evidence relating to the amount of restitution would have to be introduced at the Administrative hearing.

10. Alcohol and Drug Abuse Treatment Program

Effective 30 days from the date of this Decision, respondent shall enter an inpatient or outpatient alcohol or other drug abuse recovery program (a minimum of six (6) months duration) or an equivalent program as approved by the Board or its designee. Respondent shall provide the Board or its designee with proof that the approved program was successfully completed. Terminating the program without permission or being expelled for cause shall constitute a violation of probation by respondent. All costs associated with the program shall be paid by respondent.

However, if respondent has already attended such an inpatient or outpatient alcohol or other drug abuse recovery program, as described above, commencing with the current period of sobriety, respondent shall provide the Board or its designee with proof that the program was successfully completed and this shall suffice to comply with this term of probation.

11. Ongoing Treatment Program

Respondent shall participate in on-going treatment and/or out-patient treatment such as receiving individual and/or group therapy from a psychologist trained in alcohol and drug abuse treatment; and/or attend Twelve Step meetings or the equivalent as approved by the Board or its designee at least once a week during the first year of probation. Respondent shall provide documentation of attendance at Twelve Step meetings or the equivalent on a quarterly basis to the Board or its designee. All expenses associated with the treatment shall be paid by respondent.

NOTE: Alcohol and other drug abuse treatment shall be required in addition to other terms of probation in cases where the use of alcohol or other drugs by respondent has impaired respondent's ability to safely provide psychological services to patients. This condition must be accompanied by condition #12.

12. Abstain from Drugs and Alcohol and Submit to Tests and Samples

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription unless respondent provides the Board or its designee with documentation from the treating physician and surgeon that the prescription was legitimately issued and is a necessary part of the treatment of respondent. Respondent shall abstain completely from the use of alcoholic beverages. Respondent shall undergo random, biological fluid testing as determined by the Board or its designee. Any confirmed positive finding will be considered a violation of probation. Respondent shall pay all costs associated with such testing. The length of time and frequency of this testing condition will be determined by the Board or its designee.

Drugs - Exception for Personal Illness

Orders forbidding respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by a physician and surgeon. Respondent shall provide the Board or its designee with written documentation from the treating physician and surgeon who prescribed medication(s).

NOTE: This condition provides documentation that the probationer is substance or chemical free. It also provides the Board with a mechanism through which to require additional laboratory analyses for the presence of narcotics, alcohol and/or dangerous drugs when the probationer appears to be in violation of the terms of probation or appears to be under the influence of mood altering substances.

13. Educational Review

Respondent shall submit to an educational review concerning the circumstances that resulted in this administrative action. The educational review shall be conducted by a board-appointed expert familiar with the case. Educational reviews are informational only and intended to benefit respondent's practice. Respondent shall pay all costs associated with this educational review.

14. Community Service - Free Services

Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a community service program in which respondent shall provide free psychological services on a regular basis to community, charitable facility, governmental entity or a non-profit corporation tax

exempt under the Internal Revenue Code for at least _____ hours a month for the first _____ months of probation.

NOTE: In addition to other terms of probation, community service work may be required for relatively minor offenses that do not involve deficiencies in knowledge, skills or judgement. Community service may be appropriately combined with restitution or other conditions as a term of probation.

STANDARD TERMS AND CONDITIONS
(To be included in all Proposed Decisions and Stipulations)

15. Coursework

Respondent shall take and successfully complete not less than _____ hour each year of probation in the following area(s) _____. Coursework must be pre-approved by the Board or its designee. All coursework shall be taken at the graduate level at an accredited educational institution or by an approved continuing education provider. Classroom attendance is specifically required; correspondence or home study coursework shall not count toward meeting this requirement. The coursework must be in addition to any continuing education courses that may be required for license renewal.

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for its prior approval a plan for meeting the educational requirements. All costs of the coursework shall be paid by the respondent.

16. Ethics Course

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval a course in laws and ethics as they relate to the practice of psychology. Said course must be successfully completed at an accredited educational institution or through a provider approved by the Board's accreditation agency for continuing education credit. Said course must be taken and completed within one year from the effective date of this Decision. This course must be in addition to any continuing education courses that may be required for license renewal. The cost associated with the law and ethics course shall be paid by the respondent.

17. Investigation/Enforcement Cost Recovery

Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$_____ within the first year of probation. Such costs shall be payable to the Board of Psychology and are to be paid regardless of whether the probation is tolled. Failure to pay such costs shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs.

18. Probation Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation. Such costs shall be payable to the Board of Psychology at the end of each fiscal year (June 30). Failure to pay such costs shall be

considered a violation of probation. The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay probation monitoring costs.

Authority: Business and Professions Code Section 2964.6 (effective 1/1/95).

19. Obey All Laws

Respondent shall obey all federal, state, and local laws and all regulations governing the practice of psychology in California including the ethical guidelines of the American Psychological Association. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence.

20. Quarterly Reports

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation. Quarterly reports attesting to non-practice status are to be submitted if probation is tolled.

21. Probation Compliance

Respondent shall comply with the Board's probation program and shall, upon reasonable notice, report to the assigned Board of Psychology probation monitor. Respondent shall contact the assigned probation monitor regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with 1) complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert evaluators.

22. Interview with Board or Its Designee

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

23. Changes of Employment

Respondent shall notify the Board in writing, through the assigned probation officer **monitor**, of any and all changes of employment, location, and address within 30 days of such change.

24. Tolling for Out-of-State Practice, Residence or In-State Non-Practice

In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing psychology in

California, respondent shall notify the Board or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Sections 2902 and 2903 of the Business and Professions Code. During periods of non-practice, the probationary period is tolled and respondent's license or registration shall be placed on inactive status. The probationary period will not commence again until respondent activates his or her license and resumes practicing psychology in the state of California. However, the Board may require respondent to complete certain terms of probation that are not associated with active practice and respondent will be required to pay cost recovery and restitution as ordered.

25. Employment and Supervision of Trainees

If respondent is licensed as a psychologist, he/she shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees during the course of this probation. Any such supervisory relationship in existence on the effective date of this probation shall be terminated by respondent and/or the Board.

26. Future Registration or Licensure

If respondent is registered as a psychological assistant or registered psychologist and subsequently obtains other psychological assistant or registered psychologist registrations or becomes licensed as a psychologist during the course of this probationary order, this Decision shall remain in full force and effect until the probationary period is successfully terminated. Future registrations or licensure shall not be approved, however, unless respondent is currently in compliance with all of the terms and conditions of probation.

27. Violation of Probation

If respondent violates probation in any respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against respondent.

28. Completion of Probation

Upon successful completion of probation, respondent's license shall be fully restored.

STANDARD TERMS AND CONDITIONS
(To be included in ALL Stipulations for Surrender or Revocation)

29. Reinstatement and Investigation/Enforcement Cost Recovery

Respondent may not petition for reinstatement of a revoked or surrendered license/registration for three years from the effective date of this Decision. If the Board grants future reinstatement, respondent agrees to reimburse the Board for its costs of investigation and enforcement of this matter in the amount of \$_____ payable to the Board upon the effective date of such reinstatement Decision.

30. Relinquish License

Respondent shall relinquish his/her wall and pocket certificate of licensure or registration to the Board or its designee once this Decision becomes effective and upon request.

ACCUSATIONS

Effective January 1, 1993, the Board received authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. The Board requests that cost recovery be included in the pleading and made part of ALL Accusations.

Effective January 1, 1995, Business and Professions Code Section 2964.6 gives the Board the authority to recover probation monitoring costs. The Board requests that probation monitoring cost recovery be included in the pleading and made part of ALL Accusations.

STATEMENTS OF ISSUES

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee or registrant would be cause for license or registration discipline.

STIPULATED SETTLEMENTS

The Board will consider agreeing to stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. The respondent should be informed that in order to stipulate to a settlement with the Board, the Board would prefer that respondent admit to one or more of the principle violations set forth in the Accusation. In stipulated revocations or surrenders, the Board expects language that would cause respondents to admit to all charges upon filing future Petitions for Reinstatement. The Deputy Attorney General must accompany all proposed Stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions and proposed penalty along with a recommendation.

PROPOSED DECISIONS

The Board requests that Proposed Decisions include the following:

- A. Names and addresses of all parties to the action.
- B. Specific code section(s) violated with the definition of the code(s) in the Determination of Issues.
- C. Clear description of the acts or omissions which caused the violation.
- D. Respondent's explanation of the violation(s) in the Findings of Fact if he/she was present at the hearing.
- E. Description of all evidence of mitigation, rehabilitation and aggravation presented at the hearing.
- F. Explanation of any deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the order first list any combination of the Optional Terms and Conditions (1-13) as they may pertain to the particular case followed by **all** of the Standard Terms and Conditions (14-27).

If the respondent fails to appear for his/her scheduled hearing or does not submit a Notice of Defense form, such inaction shall result in a default decision to revoke licensure or deny application.

REINSTATEMENT/PENALTY RELIEF HEARINGS

The primary concerns of the Board at reinstatement or penalty relief hearings are 1) the Rehabilitation Criteria for Denials and Reinstatements in California Code of Regulations, Title 16, section 1395; and 2) the evidence presented by the petitioner of his/her rehabilitation. The Board will not retry the original revocation or probation case.

The Board will consider, pursuant to Section 1395, the following criteria of rehabilitation:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under section 480 of the Code.

- (3) The time that has elapsed since commission of the act(s) of crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.

The Board requests that comprehensive information be elicited from the petitioner regarding his/her rehabilitation. The petitioner should provide details that include:

- A. Why the penalty should be modified or why the license should be reinstated.
- B. Specifics of rehabilitative efforts and results which should include programs, psychotherapy, medical treatment, etc., and the duration of such efforts.
- C. Continuing education pertaining to the offense and its effect on the practice of psychology.
- D. If applicable, copies of court documents pertinent to conviction, including documents specifying conviction and sanctions, and proof of completion of sanctions.
- E. If applicable, copy of Certificate of Rehabilitation or evidence of expungement proceedings.
- F. If applicable, evidence of compliance with and completion of terms of probation, parole, restitution, or any other sanctions.

In the Petition Decision, the Board requests a summary of the offense and the specific codes violated that resulted in the revocation, surrender or probation of the license.

If the Board should deny a request for reinstatement of licensure or penalty relief, the Board requests that the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial. Such language would include methodologies or approaches that demonstrate rehabilitation. Petitioners for reinstatement must wait three years from the effective date of their revocation decisions or one year from the last petition for reinstatement decisions before filing for reinstatement.

If a petitioner fails to appear for his/her scheduled reinstatement or penalty relief hearing, such inaction shall result in a default decision to deny reinstatement of the license or registration or reduction of penalty.

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